HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No. 10587 OF 2005

Dated 31-01-2006

Between :

The A. P. Police Officers Cooperative Housing Society, Tirupati Unit, represented by its Secretary, M.S. Prakash, son of late Govinda Swamy, aged about 48 years, resident of Tirupati, Chittoor District.

….Petitioner.

And :

1. The Commissioner (ROM), Office of the Chief Commissioner of Land Administration, Hyderabad and others.

…Respondents.

ORDER :

When the Vacate Stay Petition No.1976 of 2005 came up for consideration, with the consent of both the parties, the writ petition itself is taken up for hearing.

2. The A.P. Police Officers Cooperative Housing Society, Tirupati, is the writ petitioner. The association claims that the Government has assigned Ac.5.00 of land in S. No. 1/2A of Yogi Mallavaram village and delivered possession of the same to it. The 4th respondent initiated proceedings for grant of ryotwari patta under Section 11 of the Estate Abolition Act, 1948 before the Settlement Officer. The settlement Officer, Chittoor rejected the claim of the 4th respondent on the ground that the lands bearing S.No.1/1 and S.No.1/2 admeasuring 0-80 cents and Ac.4-25 cents respectively situated at Yogimallavaram village of Tirupathi Rural Mandal are classified as “Eguva Mallamma Poramboke” falling under Sec.3 (d) of Estate Abolition Act, 1948. Assailing the order of the Settlement Officer, the 4th respondent filed a revision under Section 5 (2) of the Estate Abolition Act, 1948 before the Director of Settlement, A.P., Hyderabad. The revision came to be allowed setting

aside the order of Settlement Officer. The Mandal Revenue Officer challenged the orders of Director of Settlement, A.P. Hyderabad by filing further revision before the Special Commissioner, office of the Chief Commissioner of land Administration, Hyderabad. The association made an application before the Special Commissioner to intervene the proceedings on the ground that the association applied for assignment of the land admeasuring Ac.5-00 in S.No.1/2-A and the Mandal Revenue Officer on the orders of the District Collector put the association in possession of the land. The said application came to be dismissed by the Special Commissioner by order dated 12-6-2004. Hence the writ petition.

3. Counter affidavit has been filed by the 4th respondent. It is stated in the counter that the 4th respondent filed O.S.No.578 of 1990 against the association and others and obtained perpectual injunction. The decree granted in O.S.No.578 of 1990 came to be challenged by the association by filing an appeal being A.S. No.57 of 1995 and the said appeal also ended in dismissal.

4. Heard the counsel for the parties.

5. Learned counsel for the writ petitioner submits that the Government proposed allotment of Ac.5.00 of land to the association and put the association in possession of the land pending issue of allotment proceedings. The association filed an application before the revisional authority seeking their impleadment on the ground that the possession has been delivered to it.

6. Learned counsel for the petitioner during the course of arguments referred the proceedings of the Joint Collector and the Mandal Revenue Officer to convince the Court that the possession has been delivered to the association. I am unable to accept his contention since the Civil Court in O.S.No.578/90, on the file of Additional District Munsif, Tirupathi on a full dressed trial recorded a finding that the 4th respondent is in possession of the property. The petitioner's Association unsuccessfully challenged the Judgment and Decree granted in O.S.No.578 of 90 by filing an appeal being A.S.No.57 of 1995, on the file of the Additional District Judge, Tirupathi. If such is the situation, the petitioner-association can not be permitted to interdict the revision filed by the 4th respondent before the revisional authority. On conclusion of proceedings initiated by the 4th respondent under the

provisions of the Estate Abolition Act, 1948, the writ petitioner can claim grant of allotment of the land. The orders questioned in the writ petition do not suffer from any illegality or inconformity warranting interference by this Court in exercise of powers under Section 226 of the Constitution of India.

7. Accordingly, this writ petition is devoid of merits and the same is hereby dismissed. No costs.

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Justice B. Seshasayana Reddy

Dated 31-01-2006

Dvs

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